PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION,
TUESDAY, MAY 11, 1971.

CITY OF FORT WAYNE, INDIANA
Journal of the Proceedings
of the Common Council

The Common Council of the City of Fort Wayne met in the Council Chamber Tuesday evening, May 11, A.D., 1971 in Regular Session. President Phil A. Steigerwald in the chair, and Fuad G. Bonahoom Clerk, at the desk, present the following members eight viz:

Adams N Dunifon H Fay H Geake H Nuckols H Robinson H
Rousseau H Steigerwald H Tipton H.

Absent 1 viz: Councilman B Adams

Rev. Frank Lansing.

monthly report.

The minutes of the last regular April 27, 1971 session having been delivered to the Council, were, on Motion, approved as published.

CLERK-TREASURER'S, CITY CONTROLLER'S AND CITY TREASURER'S MONTHLY FINANCIAL STATEMENT

MONTH OF APRIL 19 71

Prescribed by State Board of Accounts

FUNDS	TOTAL JAN. 1 BALANCE AND RECEIPTS TO DATE 1	RECEIPTS FOR MONTH 2	TOTAL BALANCE AND RECEIPTS 3	DISBURSED TO DATE 4	DISBURSED FOR MONTH 5	TOTAL DISBURSEMENTS 6	TREASURER'S ENDING BALANCE 7	CONTROLLER'S ENDING BALANCE 8
GENERAL	2366,367.14	1586,738.62	3953,105.76	2353,982.66	1001,241.48	3355,224.14		597,881.62
HUMANE TRUST	5,994.16	428.00	6,422.16	473.50	240.00	713.50		5,708.66
AVIATION	228,772.62	41,668.89	270,441.51	178,875.49	48,120.49	226,995.98		43,445.53
PARK - GENERAL	606,210.40	419,995.19	1026,205.59	592,691.52	249,699.60	842,391.12		183,814.47
PARK TRUST	99,006.49	----------	99,006.49	747.35	960.31	1,707.66		97,298.83
PARK - CUMULATIVE BUILDING	166,631.88	9,000.00	175,631.88	----------	----------	----------		175,631.88
REDEVELOPMENT GENERAL	184,310.41	5,000.00	189,310.41	13,154.94	4,974.95	18,129.89		171,180.52
REDEVELOPMENT DISTRICT CAPITAL	436,957.77	43,036.27	479,994.04	6,161.83	425.00	6,586.83		473,407.21
CENTRAL CITY CODE ENFORCEMENT	32,075.22	----------	32,075.22	----------	----------	----------		32,075.22
CENTRAL CITY PARK LAND	27,276.16	----------	27,276.16	----------	----------	----------		27,276.16
MOTOR VEHICLE HIGHWAY	509,091.77	198,575.33	707,667.10	323,307.55	171,631.64	494,939.19		212,727.91
PARKING METERS	72,933.07	110,013.19	182,946.26	12,941.90	107,841.43	120,783.33		62,162.93
SEWER RELIEF	925,582.58	86,655.29	1012,237.87	920,646.25	31,356.67	952,002.92		60,234.95
FLOOD PREVENTION & RIVER IMP.	94,840.06	5,500.00	100,340.06	12,387.81	2,963.99	15,351.80		84,988.26
PARKING GARAGE	37,600.30	6,003.70	43,604.00	25,427.36	16,368.87	41,796.23		1,807.77
PUBLIC LIGHTING	63,993.66	10,000.00	73,993.66	18,245.64	1,180.84	19,426.48		54,567.18
EXPRESSWAY	8,020.79	----------	8,020.79	----------	----------	----------		8,020.79
ST. MARY'S RIVER IMPOUNDING	357,042.44	----------	357,042.44	350,000.00	----------	350,000.00		7,042.44
LOCAL ROAD & STREET ACCOUNT	782,129.58	152,749.77	934,879.35	779,641.05	155,023.50	934,664.55		214.80
BARRETT LAW MANDATORY JUDGEMENT	30,345.67	----------	30,345.67	----------	----------	----------		30,345.67
FIRE PENSION	192,335.38	115,984.16	308,319.54	187,304.32	63,882.79	251,187.11		57,132.43
POLICE PENSION	205,813.48	128,712.42	334,525.90	202,566.97	68,251.83	270,818.80		63,707.10
SANITARY OFFICER'S PENSION	37,389.84	5,893.12	43,282.96	7,526.35	2,725.31	10,251.66		33,031.30
FORT WAYNE ART INSTITUTE	1,091.20	4,000.00	5,091.20	----------	----------	----------		5,091.20
CUMULATIVE CAPITAL IMPROVEMENT	828,614.67	65,000.00	893,614.67	826,480.40	2,711.44	829,191.84		64,422.83
CITY-COUNTY BUILDING	1095,046.94	458.90	1095,505.84	771,165.13	29,683.77	800,848.90		294,656.94
R-51 FORT WAYNE NATIONAL BANK	235,092.35	----------	235,092.35	49,941.44	6,014.49	55,955.93		179,136.42
R-51 DEPOSIT HELD ACCOUNT	14,630.95	----------	14,630.95	1,908.58	5,080.00	6,988.58		7,642.37
R-51 ANTHONY WAYNE BANK	144,589.66	188,831.00	333,420.66	144,589.66	84,257.01	228,846.67		104,573.99
R-52 LINCOLN NATIONAL BANK	268,273.35	----------	268,273.35	106,510.60	37,394.26	143,904.86		124,368.49
R-52 DEPOSIT HELD-LINCOLN NATIONAL	30,959.99	----------	30,959.99	29,480.50	----------	29,480.50		1,479.49
R-52A ANTHONY WAYNE BANK	46,484.20	----------	46,484.20	----------	----------	----------		46,484.20
R-53 REVOLVING FUND	50,740.77	8,951.45	59,692.22	26,279.29	8,997.61	35,276.90		24,415.32
TOTALS								
ADJUSTMENTS (explain fully)								
BALANCE (Col. 7 must agree with Col. 8)								

CLERK-TREASURER'S, CITY CONTROLLER'S AND CITY TREASURER'S MONTHLY FINANCIAL STATEMENT

MONTH OF APRIL 19 71

Prescribed by State Board of Accounts

FUNDS	TOTAL JAN. 1 BALANCE AND RECEIPTS TO DATE 1	RECEIPTS FOR MONTH 2	TOTAL BALANCE AND RECEIPTS 3	DISBURSED TO DATE 4	DISBURSED FOR MONTH 5	TOTAL DISBURSEMENTS 6	TREASURER'S ENDING BALANCE 7	CONTROLLER'S ENDING BALANCE 8
PAYROLL	2390,992.14	809,848.61	3200,840.75	2389,302.54	767,674.96	3156,977.50		43,863.25
CITY UTILITIES - ELECTRIC	4320,197.50	1054,823.05	5375,020.55	3672,905.11	1346,848.70	5019,753.81		355,266.74
CITY UTILITIES - WATER	4154,054.21	870,169.78	5024,223.99	3784,905.33	1026,720.86	4811,626.19		212,597.80
CITY UTILITIES - SEWER	4776,300.54	1339,710.09	6116,010.63	4529,258.17	1294,648.74	5823,906.91		292,103.72
WATERWORKS CONSTRUCTION-PH. I-1967	5,634.13	----------	5,634.13	23.09	----------	23.09		5,611.04
WATERWORKS CONSTRUCTION-PH. II-1968	259,214.60	100,000.00	359,214.60	199,092.50	132,305.32	331,397.82		27,816.78
MUNICIPAL UTILITIES PENSION	32,941.30	8,574.22	41,515.52	24,047.80	8,574.22	32,622.02		8,893.50
OMNIBUS CRIME CONTROL	32,624.74	30,650.50	63,275.24	10,782.57	13,838.55	24,621.12		38,654.12
CRIME CONTROL - POLICE LEGAL ADVISOR	3,923.10	3,750.00	7,673.10	3,703.80	1,234.60	4,938.40		2,734.70
ACCIDENT REPORT ACCOUNT	12,198.62	1,458.00	13,656.62	1,509.98	757.90	2,267.88		11,388.74
SEWAGE WORKS CONSTRUCTION ACCOUNT	1303,496.73	200,000.00	1503,496.73	1298,342.58	64,320.19	1362,662.77		140,833.96
INNER CITY STORM RELIEF PLAN	820,385.65	320,000.00	1140,385.65	472,135.79	132,154.63	604,290.42		536,095.23
CHANGE	500.00	----------	500.00	----------	----------	----------		500.00
TOTALS	28,298,708.21	7,932,179.55	36230,887.76	24328,447.35	6890,105.95	31218,553.30		5,012,334.46
ADJUSTMENTS (explain fully)								
BALANCE (Col. 7 must agree with Col. 8)								

City of Fort Wayne

HAROLD S. ZEIS
Mayor

COMMUNICATION FROM THE MAYOR

To the Common Council
Fort Wayne, Indiana

Gentlemen and Mrs. Fay:

Today, April 28, 1971, I have approved the following ordinances passed by the Common Council at its regular meeting on April 27, 1971:

(Bill No. Z-69-02-07)
ZONING MAP ORDINANCE NO. Z-144-71
AN ORDINANCE amending the City of Fort Wayne Zoning Map No. B-11.

(Bill No. G-70-02-16)(Amended)
GENERAL ORDINANCE NO. G-111-71
AN ORDINANCE amending the Building Code with respect to Commercial and Industrial (non-sanitary piping systems).

(Bill No. A-71-04-01)
APPROPRIATION ORDINANCE NO. A-122-71
AN ORDINANCE appropriating $6,600.00 from the General Fund of the 1971 Budget of the City of Fort Wayne to Account No. 2-5-53b in the City Controller's Budget for 1971.

(Bill No. S-71-04-02)
SPECIAL ORDINANCE NO. S-666-71
AN ORDINANCE approving Agreement to Purchase real estate in connection with the Harvester Ditch Flooding Project.

(Bill No. S-71-04-03)
SPECIAL ORDINANCE NO. S-667-71
AN ORDINANCE approving contract with THE GENERAL TELEPHONE COMPANY OF INDIANA for Fire Protection Service.

(Bill No. S-71-04-04)
SPECIAL ORDINANCE NO. S-668-71
AN ORDINANCE approving contract with HITZFIELD EXCAVATING, INC. for Ditch Cleaning and Reshaping in the area of Wildwood Park 2nd Addition.

MADE A MATTER OF RECORD
DATE 5-11-71 RUAD G. BOHNHOOM, CITY CLERK

(Bill No. S-71-04-05)
SPECIAL ORDINANCE NO. S-669-71

AN ORDINANCE approving Agreements with MICHAEL KINDER & SONS, INC., E. A. REIM PLUMBING & HEATING, INC., H. & W. ELECTRIC CO., INC., and HILLMAN'S EQUIPMENT, INC. in connection with the construction of the new Central Fire Station No. 1.

(Bill No. S-71-04-06)
SPECIAL ORDINANCE NO. S-670-71

AN ORDINANCE approving contracts with WAYNE ASPHALT AND CONSTRUCTION COMPANY, INC. for resurfacing Hayden Street, Brooklyn Avenue, Jackson Street and Van Buren Street.

(Bill No. S-71-04-07)
SPECIAL ORDINANCE NO. S-671-71

AN ORDINANCE approving contracts with BROOKS CONSTRUCTION COMPANY, INC. for redesigning the intersection of Harrison and Killea Streets and Harrison Street and Darrow Avenue.

(Bill No. S-71-04-08)
SPECIAL ORDINANCE NO. S-672-71

AN ORDINANCE approving bid document Ref. No. 400 with FORT WAYNE DODGE, INC. for fourteen 1971 Dodge Polara Sedans for Police Department.

(Bill No. S-71-04-09)
SPECIAL ORDINANCE NO. S-673-71

AN ORDINANCE approving bid document Ref. No. 401 with BECKMAN INSTRUMENTS, INC. for one Spectrophotometer for the Police Department.

(Bill No. S-71-04-10)
SPECIAL ORDINANCE NO. S-674-71

AN ORDINANCE approving bid document Ref. No. 400, Item 1, with POINSATTE MOTORS, INC. for six Plymouth Station Wagons for the Police Department.

(Bill No. G-71-04-13)
GENERAL ORDINANCE NO. G-112-71

AN ORDINANCE regulating the operation and sanitation of non-family swimming pools and beaches; providing for permits, inspection and inspection fees; amending the Municipal Code; and providing penalties.

Respectfully submitted,

Harold S. Zeis
Mayor

City of Fort Wayne

BOARD OF PUBLIC SAFETY

COMMUNICATION FROM BOARD OF PUBLIC SAFETY

April 29, 1971

President of the Common Council
City of Fort Wayne, Indiana

Dear Sir:

Attached herewith is an authenticated copy of the Board of Public Safety Regulatory Resolution Number 24-71/E.

For the purpose of enforcement, please make this communication and the attached Regulatory Resolution a matter of record and incorporate same into the minutes of the next Common Council Meeting.

Respectfully submitted,

Melvin H. Heckman, Chairman
BOARD OF PUBLIC SAFETY

By: George W. Bormuth, Exec. Sec'y.

mb

MADE A MATTER OF RECORD
DATE 5-11-71 FUAD G. [illegible], CITY CLERK

RETURN CERTIFICATE

(Regulatory Resolution No. 24-71 /E)

I hereby certify that I did this 29th day of April, 1971 deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, The City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana, respectively, a copy of the within Regulatory Resolution No. 24-71 /E of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Secretary of said Board, in accordance with the provisions of Section 20 (a) of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance G-55, adopted FEB. 14, 1961.

G. W. Bosmeith
M.B.

EXECUTIVE SECRETARY

REGULATORY RESOLUTION NO. 24-71E

(Adopted April 28, 19 71)

WHEREAS, Section 20(a) (3), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No.G-55 adopted FEB. 14 1961 authorizes the Board of Public Safety to make experimental regulations to cover special conditions; and,

WHEREAS, a special condition has arisen justifying the Experimental Regulation hereinafter ordered, with regard to traffic signals; and,

WHEREAS, the City Traffic Engineer has, by written memorandun dated April 27, 19 71, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority granted to this Board by Section 20 (a) (3) of Chapter 31 of the Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55. adopted FEB. 14, 1961. to make experimental regulations to cover special conditions, it is hereby ordered, effective April 28, 196~~x~~71, and for a period of sixty (60) days thereafter, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. Traffic Signal:

1. Calhoun Street and Tillman Road.
2. Gary Street and Tillman Road. (Southtown Mall entrance)

City of Fort Wayne

BOARD OF PUBLIC SAFETY

COMMUNICATION FROM BOARD OF PUBLIC SAFETY

May 6, 1971

President of the Common Council
City of Fort Wayne, Indiana

Dear Sir:

Attached herewith are authenticated copies of the Board of Public Safety Regulatory Resolutions number 25-71/E and 26-71/D.

For the purpose of enforcement, please make this communication and the attached Regulatory Resolutions a matter of record and incorporate same into the minutes of the next Common Council Meeting.

Respectfully submitted,

Melvin H. Heckman, Chairman
BOARD OF PUBLIC SAFETY

By: George W. Bormuth
George W. Bormuth, Exec. Sec'y.

mb

MADE A MATTER OF RECORD
DATE 5-11-71 FUAD G. BONAHOOM, CITY CLERK

RETURN CERTIFICATE

(Regulatory Resolution No. 25-71 /E) & 26-71/D

I hereby certify that I did this 6th day of May, 1971 deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, The City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana, respectively, a copy of the within Regulatory Resolution No. 25-71/E & 26-71/D /__ of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Secretary of said Board, in accordance with the provisions of Section 20 (a) of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance G-55, adopted FEB. 14, 1961.

EXECUTIVE SECRETARY

REGULATORY RESOLUTION NO. 25-71/E

(Adopted May 5, 19 71)

WHEREAS, Section 20(a) (3), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No.G-55 adopted FEB. 14 1961 authorizes the Board of Public Safety to make experimental regulations to cover special conditions; and,

WHEREAS, a special condition has arisen justifying the Experimental Regulation hereinafter ordered, with regard to **one hour parking 8:00 A.M. to 6:00 P.M. and a no parking-emergency vehicles only deletion**; and,

WHEREAS, the City Traffic Engineer has, by written memorandun dated May 3, 19 71, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority granted to this Board by Section 20 (a) (3) of Chapter 31 of the Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55. adopted FEB. 14. 1961. to make experimental regulations to cover special conditions, it is hereby ordered, effective May 5, 1971, and for a period of sixty (60) days thereafter, and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. **One Hour Parking 8:00 A.M. to 6:00 P.M.:**

1. **Market Place - west side - from Wayne St. to the alley north thereof.**

B. **No Parking - Emergency Vehicles Only:**

DELETE

1. **Market Place - west side - from Wayne St. to the alley north thereof.**

REGULATORY RESOLUTION NO. 26-71 /D

(Adopted May 5, 1971)

WHEREAS, Section 20 (a) (2), Chapter 31, Municipal Code of the City of Fort Wayne, Indiana, as amended by General Ordinance No. G-55, adopted FEB. 14, 1961, authorizes the Board of Public Safety to make regulations to carry out its delegated authority thereunder; and,

WHEREAS, Section 62 of said chapter as so amended delegates to this Board authority to designate Preferential intersections; and,

WHEREAS, the City Traffic Engineer has, by written memorandum dated May 3, 1971, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA:

That, pursuant to the authority delegated to this Board by Section 62 of Chapter 31, Municipal Code of the City of Fort Wayne, Indiana 1946, as amended by General Ordinance No G-55 adopted FEB. 14. 1961. it is hereby ordered, effective May 5, 1971 and when signs are erected pursuant hereto giving notice thereof, that THE FOLLOWING BE ESTABLISHED:

A. **Preferential Intersection:**

1. **North Highlands Blvd - preferential at Huffman Blvd.**
2. **Glenwood Avenue - preferential at Leroy Ave.**
3. **Leroy Avenue - preferential at Lynn Ave.**

HOGG, CHRISTOFF, SNOUFFER & HALLER
ATTORNEYS AT LAW
2000 FORT WAYNE BANK BLDG.
FORT WAYNE, INDIANA 46802

DAVID HOGG
JOSEPH CHRISTOFF
RICHARD I. SNOUFFER
ROBERT W. HALLER
SHERRILL WM. COLVIN
ROGER W. HULTQUIST
STEPHEN E. LEWIS

TELEPHONE
219 – 742-8235

April 29, 1971

Clerk
City of Fort Wayne
City-County Building
Fort Wayne, Indiana 46802

RE: Vacation of South 15 feet
of Old Illinois Road

Dear Sir:

Please withdraw the petition for vacation of the captioned parcel, being the south 15 feet of the Old Illinois Road as it abuts Lots 1, 2, 3, 4, 5 and 11 in Foxford's Addition together with a part of Lot 18 in Edsall's Subdivision. This proposed resolution was presented on April 19, 1971, and after a meeting with the Board of Works of the City of Fort Wayne and representatives of the various engineering departments involved, it appears that the same would not be in the best interests of the city at this time.

Accordingly, we request thatthis matter be withdrawn and that it not be submitted to counsel for approval or disapproval.

Very truly yours,

HOGG, CHRISTOFF, SNOUFFER & HALLER

Robert W. Haller

RWH/mdc
CC: William Jones
CC: Jon Lassus
CC: Georg Maharg

MADE A MATTER OF RECORD
DATE 5-11-71 FUAD G. BONAHOOM, CITY CLERK

City of Fort Wayne

May 10, 1971

DEPARTMENT OF LAW
[illegible] Tower
[illegible] City Attorney
[illegible] Attorneys:
[illegible] L. Bloom
[illegible] R. Heaton
[illegible] E. Meyers
[illegible]rd W. George

Common Council
City of Fort Wayne

Attention: Mr. John Robinson

Gentlemen:

In the past, in the years 1952, 1954, and 1957, and perhaps other years, the time in Fort Wayne and the surrounding communities was established by resolution of the Common Council of the City of Fort Wayne.

The situation with regard to authority in this field has materially changed since passage of Public Law 89-387. This public law of which a copy of certain provisions is attached hereto was not in force during any previous period of activity by the City Council in this field. This public law provides that it is the express intent of Congress to supercede any and all laws of states or political subdivisions and also authorizes application to the United States District Court for injunctive and any other relief by mandate or otherwise against violation of this act. I am also attaching to this letter for your information copies of the findings and judgment of the court in the case of Time-Life Broadcasting Company vs. Boyd. This is the 1968 case brought by our local television stations and other television stations in connection with attempted violations of this act.

I am also attaching to this letter a copy of House Enrolled Act No. 1149 which is the time bill in Indiana. It is my opinion that this act violates the provisions of Public Law 89-387 in that it purports to exempt the State of Indiana from advanced time during the statutory period while still containing an exception authorizing advanced or daylight savings time in the Central Time Zone portions of the State of Indiana in the event Congress makes a change in the law authorizing this. It would seem on its face that this act is questionable as being in conflict with the federal law.

Sincerely,

Robert E. Meyers

Robert E. Meyers

cc: J. Robert Arnold

MADE A MATTER OF RECORD
DATE 5-11-71 FUAD G. BOMAHOOM, CITY CLERK

THIS BILL MUST NOT BE TAKEN FROM THE INDIANA LEGISLATIVE COUNCIL.

CHAPTER 491 APPROVED WOSG

HOUSE ENROLLED ACT No. 1149

AN ACT providing for the standardization of Clock Time in Indiana.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. This state hereby exempts itself from observation of advanced time between 2 A.M. of the last Sunday in April and 2 A.M. of the last Sunday in October in each calendar year.

SEC. 2. In the event that the Congress of the United States or the Department of Transportation should permit any state which is divided by a time zone line to exempt less than a whole state from the observance of advanced or Daylight Savings Time, then in such event this Act shall not apply to that portion of the State of Indiana that is in the Central Time Zone.

SEC. 3. Acts 1967, c. 283, sections 1 and 2 are hereby repealed.

SEC. 4. Whereas an emergency exists, this act shall be in full force and effect, on and after its passage.

SEC. 5. If any part or parts of this act shall be held to be unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this act, and to this end, the provisions of this act are hereby declared severable.

INDIANA TIME MAP -- -- 1971

The SHADED AREAS are in the CENTRAL STANDARD TIME zone as established by the U.S. Dept. of Transportation. The UNSHADED AREA is in the EASTERN STANDARD TIME zone.

Override Kills Daylight Time

The General Assembly, by a vote of 26-22 in the Senate and 61-36 in the House, has overridden Gov. Whitcomb's veto of the 1969 time bill. As a result, there will be no Daylight Saving Time in Indiana this year.

On April 25, when surrounding states go on fast time, our clocks will not change -- neither in the 80-county EST area nor (at least officially) in the two six-county CST areas.

The 1969 bill which is now the law in Indiana specifies however, that the 12 counties on CST could switch to Daylight Time if Congress or the U.S. Dept. of Transportation should permit it. There is a bill to this effect now before the Congress. If it should pass, then -- and only then -- will the situation be changed in Indiana.

Published by
INDIANA STATE
CHAMBER OF COMMERCE
APRIL, 1971

§ 260a. Advancement of time or changeover dates—Duration of period; State exemption

(a) During the period commencing at 2 o'clock antemeridian on the last Sunday of April of each year and ending at 2 o'clock antemeridian on the last Sunday of October of each year, the standard time of each zone established by sections 261–264 of this title, as modified by section 265 of this title, shall be advanced one hour and such time as so advanced shall for the purposes of such sections 261–264, as so modified, be the standard time of such zone during such period; except that any State may by law exempt itself from the provisions of this subsection providing for the advancement of time, but only if such law provides that the entire State (including all political subdivisions thereof) shall observe the standard time otherwise applicable under such sections 261–264, as so modified, during such period.

State laws superseded

(b) It is hereby declared that it is the express intent of Congress by this section to supersede any and all laws of the States or political subdivisions thereof insofar as they may now or hereafter provide for advances in time or changeover dates different from those specified in this section.

Violations; enforcement

(c) For any violation of the provisions of this section the Secretary of Transportation or his duly authorized agent may apply to the district court of the United States for the district in which such violation occurs for the enforcement of this section; and such court shall have jurisdiction to enforce obedience thereto by writ of injunction or by other process, mandatory or otherwise, restraining against further violations of this section and enjoining obedience thereto. Pub.L. 89–387, § 3, Apr. 13, 1966, 80 Stat. 107.

Transfer of Functions. Reference to the Interstate Commerce Commission was changed to the Secretary of Transportation pursuant to Pub.L. 89–670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation and vested all powers, duties and functions of the Interstate Commerce Commission and of the Chairman, members, offices, and officers thereof relating generally to standard time zones and daylight savings time under this section in the Secretary of Transportation. See section 1655(e)(5) of Title 49, Transportation.

Legislative History. For legislative history and purpose of Pub.L. 89–387, see 1966 U.S.Code Cong. and Adm.News, p. 2111.

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Time for exemptive action 2

½. Generally

Where this chapter was lawfully applicable to State of Indiana, Daylight Savings Time was lawful time between last Sunday in April and last Sunday in October of each year in respect to time zones into which State of Indiana was officially divided. Time Life Broadcast Co. v. Boyd, D.C.Ind.1968, 289 F.Supp. 219.

1. Local ordinances, etc.

Observance of mountain standard time by owners of retail liquor establishments, to determine opening and closing hours of their establishments, in area where central standard time was prescribed by section 260 et seq. of this title was inconsistent with section 260 et seq. of this title and was in violation of statute limiting sale of alcoholic beverages to certain hours. State ex rel. Schiredo v. Frye, N.D.1968, 157 N.W.2d 830.

Decree enjoining use of lighted recreational area prior to 7 a. m. and after 10 p. m. should refer to "prevailing mountain time" rather than "mountain standard time," so as to be applicable when daylight saving time is in effect. Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Ashton, 1968, 448 P.2d 153, 92 Idaho 571.

Resolutions of board of county commissioners and governing board of second-class city located in the county insofar as they changed from Mountain Standard Time to Central Standard Time hours for employees of the county and city respectively was within scope of lawful authority of those bodies and not in conflict with any state or federal law. Whitmer v. House, 1967, 426 P.2d 100, 198 Kan. 629.

2. State exemptions

That mountain standard time was in prevailing use in particular county would not pre-empt enforcement, throughout state, of statewide policy favoring central standard time, in absence of statutory provision applicable to individual county. State ex rel. Schiredo v. Frye, N.D.1968, 157 N.W.2d 830.

People of Michigan may themselves, by proceedings taken pursuant to constitutional provision concerning referendary power, effect or reject exemption authorized by this section. Michigan Farm Bureau v. Hare, 1967, 151 N.W.2d 797, 379 Mich. 387.

Under this section awarding exemptive right to "any state," acceptance or rejec-

Judge Cecil Halladay

and conducted upon the request of the Governor of Indiana for establishment of Central Standard Time for the whole of Indiana. Such was reviewed by the end of the year 1967 but such was diverted (but not abandoned) to the consideration of a new plan of zoning Indiana. The defendants also had under consideration proceedings involving other states which prevented their giving exclusive attention to the Indiana proceeding before the newly established United States Department of Transportation. This Court does not possess the jurisdiction under the facts of the case to interfere with the orderly processing of the Indiana time proceeding now pending befor the United States Department of Transportation.

The defendants' general policy of not enforcing the Uniform Time Act of 1966 is arbitrary and capricious. It promotes confusion among the citizens of Indiana. It caused irreparable harm and damage to the plaintiffs and to the citizens of Indiana and will continue to do so unless the defendants enforce the Uniform Time Act of 1966 in the State of Indiana and particularly the Daylight Savings Time provisions of the law until October 31, 1968. The plaintiffs are also faced with the future nation-wide seasonal programming of television industry in September 1968 and the entering into contracts with their advertisers for such programs. The television viewing citizens of Indiana, including the plaintiffs' advertisers, as well as the plaintiffs are entitled to immediate relief. The defendants' general policy is unreasonable when applied to the facts known to the defendants that the Uniform Time Act of 1966 would not be changed by defendants until late 1968 and after the expiration of the Daylight Savings Time provisions of the law for the State of Indiana from April 28, 1968 through October 31, 1968. If the defendants contemplated a change in Indiana's time law during the period of April 28, 1968 through October 31, 1968, such general policy of no enforcement would have a just and reasonable base, would promote order and wo not confuse the citizens of Indiana.

The Uniform Time Act of 1966 is law of the land and cannot be ignor No agency of government should direc or indirectly undermine its status as law and its binding effect on the citiz of Indiana. It is obvious from the leg lative history of the Uniform Time A of 1966 that Congress did not conte plate that the Department of Transp tation would condone and in fact supp the violation of the Act as was done defendants in this case.

IT IS THEREFORE ORDERED AN ADJUDGED that the defendants be a they are enjoined from further executi the general policy of not enforcing t Daylight Savings Time provisions of t Uniform Time Act of 1966 in the Sta of Indiana during the year 1968.

IT IS ALSO ORDERED AND A JUDGED that the defendants forthwi rescind and publish to the citizens Indiana the fact that the general poli of not enforcing the Daylight Savin Time provisions of the Uniform Time A of 1966 in Indiana has been judicial held illegal and has been rescinded by t defendants.

IT IS FURTHER ORDERED AN ADJUDGED that the defendants with ten (10) days file a proposed plan of a tion for the immediate enforcement the Daylight Savings Time provisio of the Uniform Time Act of 1966 in th State of Indiana in accordance with i statutory duty, or to show cause why th defendants cannot fulfill their duty unde the provisions of the Uniform Time A of 1966. 15 U.S.C.A. Section 260a(c

AND, IT IS ADJUDGED that th plaintiffs within ten (10) days observ the Daylight Savings Time provisio of the Uniform Time Act of 1966, or t show cause why the plaintiffs cann obey such law.

SUPPLEMENTAL ENTRY

This cause came on before the Cou on July 26, 1968, on the Motion of th

defendant herein filed this date for a stay of execution of the Court's Order herein of July 17, 1968, or for an extension of time within which to comply therewith. And the Court having considered said Motion and having heard the evidence presented in open court with respect thereto by the defendants and the plaintiffs and the statements of counsel for the parties, NOW FINDS:

[7] 1. The filing of a Notice of Appeal herein by the defendants on July 25, 1968, terminates the jurisdiction of this Court as to the merits of the case but this Court retains jurisdiction for purposes of enforcement or stay of enforcement of the aforesaid Order herein of July 17, 1968. Rule 62, F.R.Civ.P.

2. The defendants have admitted by their Answer previously filed herein and through the testimony of their witness that the Uniform Time Act of 1966 is lawfully applicable to the State of Indiana and that Daylight Time is the lawful time between the last Sunday in April and the last Sunday in October of each year in the respective time zones into which the State of Indiana is divided.

3. The plaintiffs heretofore on July 19, 1968, filed their report of compliance with the aforesaid Order of the Court of July 17, 1968, and have further advised the Court of their implementation thereof to become effective as of 2 A.M., on Sunday, July 28, 1968.

4. The defendants have continued to execute the general policy of not enforcing the Daylight Savings Time provisions of the Uniform Time Act of 1966 in the State of Indiana during the year 1968, in violation of the Order of the Court herein of July 17, 1968.

5. The defendants have failed to rescind and publish to the citizens of Indiana the fact that the general policy of not enforcing the Daylight Savings Time provisions of the Uniform Time Act of 1966 in Indiana has been judicially held illegal, which failure to rescind and so publish is in violation of the Order of the Court herein of July 17, 1968.

6. The defendants have failed to file a proposed plan of action for the immediate enforcement of the Daylight Savings Time provisions of the Uniform Time Act of 1966 in the State of Indiana in accordance with their statutory duty and have advised the Court that they do not intend to file such a plan within the time fixed by the Court in its Order of July 17, 1968. Further, the defendants have failed to show cause why they cannot immediately enforce the provisions of the Uniform Time Act of 1966 in Indiana in accordance with their statutory duty.

7. The relief sought by the aforesaid Motion of the defendants should be denied.

IT IS, THEREFORE, ORDERED, DETERMINED, ADJUDGED AND DECREED THAT:

(1) The Motion of the defendants for stay of execution of the Order of the Court herein of July 17, 1968, or for an extension of time in which to comply therewith, be, and the same hereby is, denied.

(2) As determined by the Court in its Order herein of July 17, 1968, the Uniform Time Act of 1966 is lawfully applicable to the State of Indiana and Daylight Time is the lawful time between the last Sunday in April and the last Sunday in October of each year in the respective time zones into which the State of Indiana is divided. Accordingly, the lawful time in that part of Indiana within the Central Time Zone is at present Central Daylight Time and the lawful time in that part of Indiana within the Eastern Time Zone is at present Eastern Daylight Time.

(3) The Clerk of this Court shall forthwith make available to all news media and to others who may inquire a copy of this Order to facilitate the public's compliance with lawful time as of 2 A.M., Sunday, July 28, 1968.

The Council then adjourned.

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of the City of Fort Wayne, Indiana and as such the custodian of the records of the Common Council of said city and that the above and foregoing is the true, full and complete record of the proceedings of the Common Council of the City of Fort Wayne, Indiana for its Regular Session, held on Tuesday, the 11th day of May, 1971; that the numbered ordinances ~~and resolutions~~ shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor as and on the dates shown as to each such ordinance ~~and resolution~~ respectively; and that all such records, proceedings, ordinances ~~and resolutions~~ remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 11th day of May, 1971.

Fuad G. Bonahoom
City Clerk

SEAL